HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 931 (MS) of 2004

Anand Dubey
S/o Sh. Motilal Dubey
R/o 35/4 Turner Road
Clement Town Dehradun. ..... Petitioner

VS

Judge, Family Court
Dehradun and others ..... Respondents.

Counsel for the Petitioner Sh. Ram Ji Srivastava
Standing Counsel for the respondents.

Dated:- 29-9-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Ram Ji Srivastava learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition the petitioner has prayed for issue of a writ, order or direction in the nature of mandamus commanding the Judge, Family Court, Dehradun respondent No.1 to decide the Original Suit No. 102 of 2004 Anand Dubey Vs. Smt. Sarika Dubey under section 13(1) (a) read with section 26 of Hindu Marriage Act. Petitioner has also prayed for expeditious disposal of the application dt. 25-8-2004 preferred under Section 7 of the Family Court Act read with Section 26 of the Hindu Marriage Act pending in the Judge Family Court Dehradun.

Briefly stated on 29-3-2004, the petitioner has filed a divorce petition under Section 13(1) (a) read with section 26 of Hindu Marriage Act against the respondent No.2 in the Judge, Family Court Dehradun. On 25-8-2004. The petitioner has also moved an application under Section 7 of the Family Court Act read with Section 26 of Hindu Marriage Act for permission to meet his daughter.

Counsel for the petitioner has referred the provision under section 21-B (2) of the Hindu Marriage Act, 1955 which provides that the hearing before the Family Judge Court Act has to be completed within the period of 6 months. The same is quoted below:-

> *" Every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent."*

In view of the aforesaid proposition of law, the respondent is directed to decide the suit itself within a period of 6 months.

However, an application under Section 7 of the Family Court Act read with Section 26 shall be disposed of on the date fixed i.e. 7-Octomber 2004 or any other date on which the same may be disposed of within a period of 3 weeks thereafter.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

Dated:- 29-9-2004 ***(RAJESH TANDON J.)***

M.K